

## Evaluating waiver and variance application

Here is a tool for board members for evaluating applications for waivers and variances. As a reminder, here is our statutory language about waivers and variances:

- The board shall adopt procedures for considering temporary variances and waivers of the established standards for individual nursing homes based on the board's evaluation of the risk of closure or receivership under section [144A.15](#), due to compliance with all or part of an applicable standard (Minnesota Statutes § 181.213, subdivision 4).

Some key aspects of the statutory language to remember include the following.

**Evaluation of risk:** The board must evaluate the application. Each individual situation may be different and that means the evaluation, discussion and thoughtful consideration by the board is important and brings forward the board's subject matter expertise in the many different aspects of nursing homes.

**Risk of closure or receivership:** The statute references risk of closure or receivership, meaning the situation of the nursing home to receive a waiver or variance should be dire.

**Due to compliance:** The risk of closure or receivership needs to be tied to complying with the standards. The board has already seen the wide variety of situations the nursing homes find themselves in. In essence, the board needs to determine if the risk of closure or receivership is due to compliance with the standards or other factors that impact a facility's ability to stay open and out of receivership.

**Applicant identifying number, if needed:** \_\_\_\_\_ (name is kept anonymous)

**Received application date:**

**Decision due date:**

**Discussion date(s):**

**Notes and recommendation from Waiver Review Workgroup:**

**Notes from staff:**

## Evaluation tool for board members to use for applications

Factors	Financials	Census	Long-term issues	Other issues
Description of category	Financial statements that demonstrate whether the nursing home has financial resources to continue their operations	Does the nursing home have enough residents to keep its nursing home open and solvent or is it unable to stop or mitigate an ongoing loss of residents?	Does the nursing home have risk factors that are permanent or not easily changed or determined by outside forces?	Does the nursing home have unique factors that could be changed by the nursing home employer?
What risk factors does the applicant report?				
How likely is closure based on reported factors, notwithstanding the standards?				
How do the standards affect reported risk factors?				
Evaluating all the factors in this process, does the board believe this nursing home is at risk of closure or receivership due to the standards? If it was already at a risk of closure, do the standards increase the risk of closure or receivership enough to warrant a waiver or variance?				

## Checklist of documents, items received from applicant

Received?	Document, item	Notes
	Statement of need	
	Operating budget current year	
	Operating budget next year	
	Cost of implementing standards – holiday pay	
	Cost of implementing standards – minimum wages	
	Aging of payables report (for example: AP aging summary [12 months rolling])	
	Cashflow statement (current, past two years)	
	Audited financials	
	Optional: If your organization is in breach of covenant with a financial institution(s), you may include evidence of that breach	
	Debt service coverage ratio	
	Net margin or operating margin ratio	
	Days in accounts receivable (365 days)	
	Accounts payable (365 days)	
	Days of cash on hand	
	Working capital ratio – a financial metric that measures a company's liquidity or its ability to pay its short-term debts (assets and liabilities)	
	Provide copies of your facility's average census by month for the past 24 months	
	Census questions:	

Received?	Document, item	Notes
	<ol style="list-style-type: none"> <li>1. Do you have to limit census below capacity because you are unable to staff to full capacity? If yes, explain.</li> <li>2. If you have to limit census for other reasons, explain.</li> <li>3. Is your facility trying to increase your census? Why or why not?</li> </ol>	
	<p>Long-term-issues questions:</p> <ol style="list-style-type: none"> <li>1. Does your physical plant have deficiencies that require an expenditure of at least \$100,000? If yes, explain the deficiencies and timeline for addressing them.</li> <li>2. Is your facility receiving little to no interest in posted vacant positions? If yes, explain.</li> <li>3. Does your facility have positions that have been open for longer than six months? If yes, explain.</li> <li>4. Has your facility received citations from the Minnesota Department of Health? If yes, explain.</li> </ol>	
	<p>Other questions:</p> <ol style="list-style-type: none"> <li>1. In the past year, has your facility's depreciation schedule changed? If yes, explain.</li> <li>2. For obligations in your budget, are any transactions with "related parties," as defined by the CMS provider reimbursement manual? If yes, explain.</li> <li>3. Did your organization receive a rate add-on under Minnesota Statutes 256R.495 to pay for the minimum-wage standards? If yes, explain your need for a waiver.</li> </ol>	
	<p>Other documentation: Include any other documentation you believe would help demonstrate your risk of closure or receivership.</p>	

Received?	Document, item	Notes
	Plan to come into compliance: Waivers and variances from the Nursing Home Workforce Standards Board standards must be temporary. Outline your facility's or facilities' plan(s) to come into compliance with the standards.	
	Attestation signed	

DRAFT